

Executive Summary – Enforcement Matter – Case No. 48337
City of Deer Park
RN101719839
Docket No. 2014-0296-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Deer Park Central Plant, located at 526 East 2nd Street, approximately 800 feet south of State Highway 225 and approximately 3,000 feet east of Center Street, Deer Park, Harris County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 27, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$22,875

Amount Deferred for Expedited Settlement: \$4,575

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$18,300

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 9, 2014

Executive Summary – Enforcement Matter – Case No. 48337
City of Deer Park
RN101719839
Docket No. 2014-0296-MWD-E

Date(s) of NOE(s): February 7, 2014

Violation Information

Failed to comply with permitted effluent limits. Specifically, the *Escherichia coli* daily maximum concentration exceeded the permitted limit of 399 colony forming units per 100 milliliters ("CFU/100 mL") for the monitoring periods ending June 30, 2013 (2,420 CFU/100 mL); September 30, 2013 (548 CFU/100 mL); and October 31, 2013 (2,420 CFU/100 mL) [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010519002, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to, within 720 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010519002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Raymond Mejia, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5460; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Jerry Mouton, Jr., Mayor, City of Deer Park, P.O. Box 700, Deer Park, Texas 77536-0700

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	18-Feb-2014	Screening	24-Feb-2014	EPA Due	
	PCW	7-May-2014				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Deer Park		
Reg. Ent. Ref. No.	RN101719839		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	48337	No. of Violations	2
Docket No.	2014-0296-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Raymond Mejia
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$18,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	22.0% Enhancement	Subtotals 2, 3, & 7	\$4,125
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Notes Enhancement for four months of self-reported effluent violations and one NOV with dissimilar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$355,438
Approx. Cost of Compliance \$2,700,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$22,875
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$22,875
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$22,875
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DEFERRAL	20.0% Reduction	Adjustment	-\$4,575
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$18,300
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Screening Date 24-Feb-2014

Docket No. 2014-0296-MWD-E

PCW

Respondent City of Deer Park

Policy Revision 3 (September 2011)

Case ID No. 48337

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101719839

Media [Statute] Water Quality

Enf. Coordinator Raymond Mejia

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four months of self-reported effluent violations and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 22%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 22%

Screening Date 24-Feb-2014

Docket No. 2014-0296-MWD-E

PCW

Respondent City of Deer Park

Policy Revision 3 (September 2011)

Case ID No. 48337

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101719839

Media [Statute] Water Quality

Enf. Coordinator Raymond Mejia

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010519002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on January 9, 2014. Specifically, the Escherichia coli ("E. coli") daily maximum concentration exceeded the permit limit of 399 colony forming units per 100 milliliters ("CFU/100 mL") for the monitoring periods ending June 30, 2013 (2,420 CFU/100 mL); and October 31, 2013 (2,420 CFU/100 mL).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 2

61

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Two monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$355,438

Violation Final Penalty Total \$18,300

This violation Final Assessed Penalty (adjusted for limits) \$18,300

Economic Benefit Worksheet

Respondent City of Deer Park
Case ID No. 48337
Reg. Ent. Reference No. RN101719839
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,700,000	30-Jun-2013	16-Feb-2016	2.63	\$355,438	n/a	\$355,438

Notes for DELAYED costs

Actual cost to determine the cause of noncompliance and make necessary repairs/adjustments to Facility equipment to include a new Ultra Violet system. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,700,000

TOTAL

\$355,438

Screening Date 24-Feb-2014

Docket No. 2014-0296-MWD-E

PCW

Respondent City of Deer Park

Policy Revision 3 (September 2011)

Case ID No. 48337

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101719839

Media [Statute] Water Quality

Enf. Coordinator Raymond Mejia

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010519002, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on January 9, 2014. Specifically, the Escherichia coli ("E. coli") daily maximum concentration exceeded the permit limit of 399 colony forming units per 100 milliliters ("CFU/100 mL") for the monitoring period ending September 30, 2013 (548 CFU/100 mL).

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$4,575

This violation Final Assessed Penalty (adjusted for limits) \$4,575

Economic Benefit Worksheet

Respondent City of Deer Park
Case ID No. 48337
Reg. Ent. Reference No. RN101719839
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Economic benefit for this violation is included with Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600691604, RN101719839, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator:	CN600691604, City of Deer Park	Classification:	SATISFACTORY	Rating:	3.84
Regulated Entity:	RN101719839, CITY OF DEER PARK CENTRAL PLANT	Classification:	SATISFACTORY	Rating:	0.27
Complexity Points:	8	Repeat Violator:	NO		
CH Group:	08 - Sewage Treatment Facilities				
Location:	526 EAST 2ND STREET, APPROXIMATELY 800 FEET SOUTH OF STATE HIGHWAY 225 AND APPROXIMATELY 3000 FEET EAST OF CENTER STREET WITHIN THE CITY LIMITS OF DEER PARK, HARRIS COUNTY, TEXAS				
TCEQ Region:	REGION 12 - HOUSTON				
ID Number(s):					
WASTEWATER PERMIT	WQ0010519002	WASTEWATER EPA ID	TX0025321		
WASTEWATER LICENSING	LICENSE WQ0010519002				
Compliance History Period:	September 01, 2008 to August 31, 2013	Rating Year:	2013	Rating Date:	09/01/2013
Date Compliance History Report Prepared:	March 24, 2014				
Agency Decision Requiring Compliance History:	Enforcement				
Component Period Selected:	March 24, 2009 to March 24, 2014				
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.					
Name:	Raymond Mejia		Phone:	(512) 239-5460	

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	April 16, 2009	(751322)
Item 2	May 05, 2009	(769130)
Item 3	May 14, 2009	(769128)
Item 4	June 08, 2009	(769129)

Item 5	August 28, 2009	(807160)
Item 6	September 15, 2009	(807161)
Item 7	October 27, 2009	(807162)
Item 8	December 17, 2009	(807164)
Item 9	January 15, 2010	(807165)
Item 10	February 18, 2010	(807159)
Item 11	March 17, 2010	(831776)
Item 12	April 14, 2010	(831777)
Item 13	May 06, 2010	(831778)
Item 14	June 11, 2010	(846549)
Item 15	July 07, 2010	(861107)
Item 16	August 05, 2010	(959617)
Item 17	August 16, 2010	(867170)
Item 18	September 16, 2010	(874223)
Item 19	October 19, 2010	(881824)
Item 20	November 17, 2010	(888312)
Item 21	December 17, 2010	(896590)
Item 22	January 11, 2011	(902599)
Item 23	February 21, 2011	(909390)
Item 24	April 19, 2011	(925804)
Item 25	May 21, 2011	(938343)
Item 26	June 17, 2011	(945710)
Item 27	September 19, 2011	(965656)
Item 28	October 14, 2011	(971695)
Item 29	November 14, 2011	(977859)
Item 30	December 13, 2011	(984632)
Item 31	January 14, 2012	(990920)
Item 32	February 10, 2012	(998289)
Item 33	March 12, 2012	(1003809)
Item 34	April 10, 2012	(1010376)
Item 35	May 09, 2012	(1016763)
Item 36	June 08, 2012	(1031888)
Item 37	June 18, 2012	(1024502)
Item 38	August 10, 2012	(1038308)
Item 39	September 14, 2012	(1047016)
Item 40	October 10, 2012	(1062169)
Item 41	November 13, 2012	(1062170)
Item 42	November 16, 2012	(1079638)
Item 43	December 17, 2012	(1062171)
Item 44	February 11, 2013	(1079639)
Item 45	March 11, 2013	(1089623)
Item 46	April 11, 2013	(1096018)
Item 47	May 08, 2013	(1106958)
Item 48	June 14, 2013	(1110611)
Item 49	August 06, 2013	(1125275)
Item 50	September 10, 2013	(1129858)
Item 51	January 14, 2014	(1153511)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date: 06/30/2013 (1117501)	CN600691604	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
2	Date: 09/30/2013 (1135601)	CN600691604	
	Self Report? YES	Classification:	Moderate
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		

	Description:	Failure to meet the limit for one or more permit parameter		
3	Date:	10/31/2013 (1140992)	CN600691604	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
4	Date:	11/30/2013 (1147460)	CN600691604	
	Self Report?	YES	Classification:	Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description:	Failure to meet the limit for one or more permit parameter		
5	Date:	12/05/2013 (1122378)	CN600691604	
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(5)		
	Description:	Failed to properly maintain the facility.		
	Self Report?	NO	Classification:	Moderate
	Citation:	30 TAC Chapter 319, SubChapter A 319.11(e) 30 TAC Chapter 319, SubChapter A 319.11(f) 30 TAC Chapter 319, SubChapter A 319.6 30 TAC Chapter 319, SubChapter A 319.9(c)		
	Description:	Failure to properly implement QA/QC procedures.		

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF DEER PARK
RN101719839

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2014-0296-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Deer Park (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility at 526 East 2nd Street, approximately 800 feet south of State Highway 225 and approximately 3000 feet east of Center Street within the city limits of Deer Park, Harris County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 12, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Twenty-Two Thousand Eight Hundred Seventy-Five Dollars (\$22,875) is assessed by the Commission in settlement of the

violations alleged in Section II ("Allegations"). The Respondent has paid Eighteen Thousand Three Hundred Dollars (\$18,300) of the administrative penalty and Four Thousand Five Hundred Seventy-Five Dollars (\$4,575) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010519002, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on January 9, 2014. Specifically, the *Escherichia coli* ("*E. coli*") daily maximum concentration exceeded the permitted limit of 399 colony forming units per 100 milliliters ("CFU/100 mL") for the monitoring periods ending June 30, 2013 (2,420 CFU/100 mL); September 30, 2013 (548 CFU/100 mL); and October 31, 2013 (2,420 CFU/100 mL).

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Deer Park, Docket No. 2014-0296-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that within 720 days after the effective date of this Agreed Order, the Respondent shall submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010519002, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pamela Garcia
For the Executive Director

8/26/14
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Jerry Mouton Jr.
Signature

5/22/14
Date

Jerry Mouton Jr.
Name (Printed or typed)
Authorized Representative of
City of Deer Park

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.